

FIRST REGULAR SESSION

HOUSE BILL NO. 691

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHRISTENSEN.

1888H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to pornography website access.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.2095, to read as follows:

407.2095. 1. For purposes of this section, the following terms mean:

(1) "Commercial entity", includes corporations, limited liability companies, partnerships, limited partnerships, sole proprietorships, or other legally recognized entities;

(2) "Distribute", to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means;

(3) "Internet", the international computer network of both federal and non federal interoperable packet-switched data networks;

(4) "Material harmful to minors", includes:

(a) Any material that the average person applying contemporary community standards would find, taking the material as a whole and with respect to minors, is designed to appeal to or pander to the prurient interest;

(b) Any of the following material that exploits, is devoted to, or principally consists of descriptions of actual, simulated, or animated display or depiction of any of the following, in a manner patently offensive with respect to minors:

a. Pubic hair, anus, vulva, genitals, or nipple of the female breast;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 **b. Touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or**
18 **genitals; or**
- 19 **c. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation,**
20 **flagellation, excretory functions, exhibitions, or any other sexual act; and**
- 21 **(c) The material taken as a whole lacks serious literary, artistic, political, or**
22 **scientific value for minors;**
- 23 **(5) "Minor", any person under eighteen years of age;**
- 24 **(6) "News-gathering organization", any of the following:**
- 25 **(a) An employee of a newspaper, news publication, or news source, printed or on**
26 **an online or mobile platform, of current news and public interest while operating as an**
27 **employee as provided in this paragraph who can provide documentation of such**
28 **employment with the newspaper, news publication, or news source; or**
- 29 **(b) An employee of a radio broadcast station, television broadcast station, cable**
30 **television operator, or wire service while operating as an employee as provided in this**
31 **paragraph who can provide documentation of such employment;**
- 32 **(7) "Publish", to communicate or make information available to another person**
33 **or entity on a publicly available internet website;**
- 34 **(8) "Reasonable age-verification methods", verifying that a person seeking to**
35 **access material is eighteen years of age or older by requiring the person attempting to**
36 **access the material to comply with a commercial age-verification system that verifies age**
37 **in one or more of the following ways:**
- 38 **(a) Government-issued identification; or**
- 39 **(b) Any commercially reasonable method that relies on public or private**
40 **transactional data to verify the age of the person attempting to access the information is**
41 **at least eighteen years of age;**
- 42 **(9) "Substantial portion", more than thirty-three and one-third percent of total**
43 **material on a website that meets the definition of "material harmful to minors" as**
44 **defined under this section;**
- 45 **(10) "Transactional data", a sequence of information that documents an**
46 **exchange, agreement, or transfer between an individual, commercial entity, or third**
47 **party used for the purpose of satisfying a request or event. "Transactional data" may**
48 **include, but is not limited to, records from mortgage, education, and employment**
49 **entities.**
- 50 **2. Any commercial entity that knowingly and intentionally publishes or**
51 **distributes material harmful to minors on the internet from a website that contains a**
52 **substantial portion of such material shall be held liable if the entity fails to perform**

53 reasonable age-verification methods to verify the age of individuals attempting to access
54 the material.

55 3. Any commercial entity or third party that performs the required age
56 verification shall not retain any identifying information of the individual after access
57 has been granted to the material.

58 4. Any commercial entity that is found to have violated this section shall be liable
59 to an individual for damages resulting from a minor's accessing the material, including
60 court costs and reasonable attorney's fees as ordered by the court.

61 5. A commercial entity that is found to have knowingly retained identifying
62 information of the individual after access has been granted to the individual shall be
63 liable to the individual for damages resulting from retaining the identifying information,
64 including court costs and reasonable attorney's fees as ordered by the court.

65 6. This section shall not apply to any bona fide news or public interest broadcast,
66 website video, report, or event and shall not be construed to affect the rights of any
67 news-gathering organizations.

68 7. No internet service provider, or its affiliates or subsidiaries, search engine, or
69 cloud service provider shall be held to have violated the provisions of this section solely
70 for providing access or connection to or from a website or other information or content
71 on the internet or a facility, system, or network not under that provider's control,
72 including transmission, downloading, intermediate storage, access software, or other
73 activity, to the extent such provider is not responsible for the creation of the content of
74 the communication that constitutes material harmful to minors.

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